



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JLP:ddj

Docket No: 4915-00

31 October 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1560 MRV of 2 October 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1560
MRV

OCT 02 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR
BOARD FOR CORRECTION OF NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF [REDACTED]

1. [REDACTED] had an opportunity to be enrolled in the Montgomery GI Bill (MGIB) program but declined. This information is contained in the Marine Corps Total Force System, (MCTFS) which downloads to the Department of Veterans Affairs. Under Chapter 30, Title 38, U.S.C., eligible Marines are automatically enrolled in the MGIB upon their initial entry on active duty unless they exercise their option to disenroll.

2. The DD Form 2366 which [REDACTED] signed, states that he understands that he is eligible for the MGIB, that he will be automatically enrolled, but that if he elects to disenroll, "the option to enroll WILL NOT be available" at a later date. [REDACTED]'s decision to decline participation in the MGIB is, by federal law, irrevocable.

3. Based on the information that has been provided, this office recommends that no change be made to 1stLt Van Esselstyn's record.

4. Any further questions concerning 1stLt [REDACTED] eligibility can be directed to my POC, Ms. [REDACTED] at DSN 278-9644 or commercial (703) 784-9644.

PAUL G. POWER
Major
Acting Branch Head
Personal Services